

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TUNG Y. HSIEH,

Plaintiff,

-against-

AROGANT HOLLYWOOD,

Defendant.

16-CV-7275 (CM)

ORDER

COLLEEN McMAHON, Chief United States District Judge:

Defendant Arogant Hollywood, appearing *pro se*, removes this action from the Superior Court of California, County of Los Angeles, Northeast District, under 28 U.S.C. § 1441. By order dated September 30, 2016, the Court granted Defendant's request to proceed without prepayment of fees, that is, *in forma pauperis*. For the reasons set forth below, the Court remands this action to the Superior Court of California, County of Los Angeles, Northeast District.

BACKGROUND

The following facts are taken from Defendant's notice of removal. On August 18, 2016, Plaintiff Tung Hsieh initiated an action in the Superior Court of California, County of Los Angeles, Northeast District, to evict Defendant, along with twelve other individuals,¹ from property situated in Alhambra, California. Plaintiff maintains that Defendant Jennifer Gordon sublet the property without Plaintiff's permission, in violation of their lease agreement. Plaintiff seeks reasonable attorney's fees, forfeiture of the agreement, and damages in the amount of \$51.66 per day, beginning August 16, 2016, for each day Defendants retain possession of the

¹ The Court notes that Defendant does not list his co-defendants in the caption, nor does Defendant indicate whether any co-defendants join him in removing the action, or consent to its removal, as required under 28 U.S.C. § 1446(b)(2)(a).

property through entry of judgment on this action. On September 16, 2016, Defendant Hollywood filed a notice of removal to this Court.

DISCUSSION

Removal of this action to this Court is improper. A party seeking to remove a civil action must comply with the procedures of the removal statute, and that statute is construed strictly. *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108 (1941). If there is a defect in the removal procedure, courts are authorized to remand a case to the state court in which the action originated. 28 U.S.C. § 1447(c); *see also LaFarge Coppee v. Venezolana De Cementos, S.A.C.A.*, 31 F.3d 70, 72 (2d Cir. 1994). The removing party bears the burden of demonstrating that the removal was procedurally proper. *See Wilds v. United Parcel Serv., Inc.*, 262 F. Supp.2d 163, 171 (S.D.N.Y. 2003).

The removal statute requires the defendants who seek to remove a civil action from state court to “file in the district court of the United States *for the district and division within which such action is pending* a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure” 28 U.S.C. § 1446(a) (emphasis added). The action that Defendant seeks to remove is pending in Los Angeles County, California. Accordingly, to remove that action to federal court, Defendant is required to file a notice of removal in the United States District Court for the Central District of California, Western Division. 28 U.S.C. § 84(c)(2); *see also* § 1446(a). Because removal of this action is improper, it is remanded under 28 U.S.C. § 1447(c) to the Superior Court of California, County of Los Angeles, Northeast District, where it originated.

CONCLUSION

The Clerk of Court is directed to assign this matter to my docket, mail a copy of this order to Defendant, and note service on the docket. Because removal of this action is improper, it is remanded under 28 U.S.C. § 1447(c) to the Superior Court of California, County of Los

Angeles, Northeast District. The Clerk of Court is further directed to mail a copy of this order to the Superior Court of California, County of Los Angeles, Northeast District, and to close this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: October 12, 2016
New York, New York

A handwritten signature in black ink, appearing to read "Colleen McMahon", is written over a horizontal line.

COLLEEN McMAHON
Chief United States District Judge